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April 28, 2014

VIA ECF

The Honorable Madeline C. Arleo
United States Magistrate Judge
U.S. District Court for the District of New Jersey
Martin Luther King, Jr. Federal Building &
U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Re: *In Re: Zimmer Durom Hip Cup Products Liability Litigation*

Dear Judge Arleo:

I write in furtherance of Joe Tanner's letter dated April 22, 2014, and Plaintiffs' April 22, 2014, responsive letter regarding Plaintiffs' Motion to Modify Discovery Confidentiality Order and accompanying materials (the "Motion") (Dkt. No. 334). If the Court is not inclined to reject the Motion outright for the reasons stated in our April 22, 2014, letter, we respectfully reiterate Zimmer's request to have additional time to respond to the Motion.

First, as stated in our initial correspondence, Andy Campbell and Joe Tanner have been out of the country since April 21, 2014, in connection with depositions in this litigation, and will not return to the office until May 5, 2014.

Second, any urgency regarding their Motion is of Plaintiffs' making. Indeed, the Court entered the Discovery Confidentiality Order on March 10, 2011. Plaintiffs' belated request to reconsider that Order, to which the parties have been adhering for over three years, does not justify forcing Zimmer to respond on Plaintiffs' time schedule under the present circumstances.

Third, this Court reaffirmed the very provision Plaintiffs challenge during its April 10 hearing (see Transcript, Dkt. No. 349) and in its April 16, 2014, Order (Dkt. No. 343). The Motion's lack of merit amplifies the lack of urgency of any response.

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Finally, as to Plaintiffs' claimed critical timing regarding preparation for the deposition of Dr. Lawrence Dorr, both Plaintiffs and Dr. Dorr have acknowledged that Dr. Dorr has already seen, reviewed, and prepared for his deposition using confidential documents. *See* April 14, 2014, letter from Kyla Cole to the Court (Dkt. No. 329) and April 22, 2014, supplemental letter from Kyla Cole, including the affidavit of Dr. Dorr. Thus, not only can there be no prejudice from any delay with respect to Dr. Dorr, but Plaintiffs' violation of the Discovery Confidentiality Order prevents Zimmer from ever hearing Dr. Dorr's unvarnished testimony. At the very least, therefore, Plaintiffs should not be permitted to use Dr. Dorr as a reason to not provide Zimmer more time to respond in a reasonable way under the circumstances.

For the foregoing reasons and those stated in our April 22 letter, we respectfully request the plaintiffs' Motion be rejected in full, and, if not rejected, that Zimmer be granted until May 9, 2014, to respond.

Respectfully submitted,



Stacy Prall

SLP/dks

cc: George Tankard
Wendy Fleishman
Daniel Leathers
Edward Fanning
J. Joseph Tanner
Andrew L. Campbell